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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,557	07/06/2005	Shlomo Elfanbaum	54/8	5832
7590 Mark M. Friedman Bill Polkinghorn 9003 Florin Way Upper Marlboro, MD 20772			EXAMINER GEBREMICHAEL, DRUK A	
			ART UNIT 3714	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/541,557

**Applicant(s)**

ELFANBAUM, SHLOMO

**Examiner**

BRUK A. GEBREMICHAEL

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 4, 6 and 17 are objected to because of the following informalities:

With regard to claim 4, the phrase "data defined by he user" in line 3 of the claim is believed to be in error for -- data defined by the user --. In addition, there are periods (.) in lines 4, 9 and 13 of this claim indicating end of claim limitations. In order to include these limitations as part of the same claim, the periods need to be replaced with a semicolon. Appropriate correction is required.

With regard to claim 6, the word "week" in line 3 of the claim is believed to be in error for -- weak --. Appropriate correction is required.

With regard to claim 17, the word "immediatley" in line 3 of the claim is believed to be in error for -- immediately --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "An apparatus and method" in line 1 of this claim renders the claim indefinite, since the independent claim should be either a method claim or an apparatus claim, but NOT both.

Regarding claim 4, the phrase "The happiness index calculation is performed according to the ratio between: the settings and the ratio between them that the user has defined regarding his emotional character and emotional needs" in lines 9-13 renders the claim indefinite since it is not clear what ratio is part of the claimed limitation. However, the Examiner considered the features in the specification to interpret this ratio.

Regarding claim 6, the phrase "such as" in lines 2-3 renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed limitation. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- Claims 1-5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shovers 5,696,981 in view of Snyder 4,931,934.

Regarding claim 1, Shovers discloses the following claimed limitations, an apparatus and method allowing a person to describe, through writing or selecting from a list into a database (col.3, lines 8-18), attributes of emotional or physical significance in a manner that can define their personal importance and weight for him, and in the manner that he understands and expresses them (col.5, lines 8-21).

However, Shovers does not explicitly disclose, the attributes of emotional or physical significance being with respect to the subject's happiness/mood.

Snyder discloses a system and method for measuring emotion that teaches, attributes of emotional or physical significance with respect to the subject's happiness/mood (col.5, lines 14-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder by allowing the user to scale the elements that influence his/her mood so that the system would derive a tabulated baseline intensity for each emotion and provide feedback to the subject based on the intensity result.

Regarding claim 2, Shovers in view of Snyder teaches the claimed limitations as discussed above.

Snyder further teaches, allow a user to provide quantitative, comparative meaning for each of the attributes in an individual manner characterizing the user (col.4, lines 43-53).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder by incorporating a set of words representing emotion in a database, such as electronic dictionary, in order to allow the user to select a word that best describes the experienced emotion, and also allow the user to assign an intensity level (weight) so that the user would give this weight based on how strongly each emotion is felt, thereby describing the subject's mood.

Regarding claim 3, Shovers in view of Snyder teaches the claimed limitations as discussed above.

Shovers further discloses, allowing the user to enter his feeling at a certain time regarding his emotional and physiological attributes (some or all) into the apparatus (FIG 1, labels 120, 130 and col.6, lines 21-31) in a manner that provides for their evaluation and quantification for the purpose of calculating the user's happiness index at the given time (col.8, lines 9-20).

Regarding claim 4, Shovers in view of Snyder teaches the claimed limitations as discussed above.

Shovers further discloses, the happiness index calculation is performed according to the ratio between: the settings and the ratio between them that the user has defined regarding his emotional character and physiological needs, and: his definition of his emotional feeling at that time (col.9, lines 38-43 and col.10, lines 1-8).

Snyder further teaches, calculating a personal happiness index using an algorithm that processes the personal data defined by he user and calculates the user's personal happiness index (col.5, lines 8-13). The algorithm processes each of the components according to the user's personal attributes or according to average attributes derived from evaluations and studies by professionals in the field (if the user has not entered personal attributes) and adds or deducts points from the happiness index (col.5, lines 14-26).

Therefore here also, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of

Snyder by allowing the user to scale each emotion that influence his/her mood so that the system would derive a tabulated baseline intensity for each emotion and provide feedback to the subject based on the intensity result.

However, in this claim even if the line, *As noted, if the user states a certain emotional field as being very meaningful and gives that emotion a bad assessment for the reflection at that time, this will cause a significant decrease in the happiness index, whereas a good assessment will cause a significant increase*, appears to be a remark and not a claim limitation, it is already taught by Shovers (col.5, lines 8-19).

Regarding claim 5, Shovers in view of Snyder teaches the claimed limitations as discussed above.

Snyder further teaches, the user can calculate a quantitative index for his feelings and emotions in accordance with his personal data, an index that can be called, as noted, the happiness index or satisfaction index or any other characteristic and suitable name for the user's personal emotional state (col.5, lines 19-23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder by assigning identifications (names) for the different emotions in order to allow the user to easily recognize the state of his/her emotion with respect to its numerical value (Snyder, FIG 5).

Regarding claim 11, Shovers in view of Snyder teaches the claimed limitations as discussed above.

Shovers further discloses, providing for interfacing with the application by sound (voice) and hearing (col.6, lines 60-65).

- Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shovers 5,696,981 in view of Snyder 4,931,934 and further in view of Kenknight 6,878,111.

Regarding claim 6, Shovers in view of Snyder teaches the claimed limitations as discussed above.

However, Shovers in view of Snyder does not explicitly teach, the said index receives the form of a number of alphabetical value, such as: excellent, good, medium, week, and using these terms, or allowing for the identification of a current state and comparing it to a previous state and the one before, and comparing it to the state of others if they act on the same set of variables (col.3, lines 50-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder and further in view of Kenknight by assigning identifications for the index values (such as good, neutral, bad) so that the system would create a pictorial or graphical representation of the behavior or mood of the subject using these familiar designations instead of numerical values that need further interpretations.

Regarding claim 12, Shovers in view of Snyder and further in view of Kenknight teaches the claimed limitations as discussed above.

Snyder further teaches, providing for the entering of data and receipt of feedback in a graphical or tabular format (col.5, lines 10-23).



Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder and further in view of Kenknight by providing a peripheral drawing device or any type of input device in order to allow the user to enter the intensity of the emotions so that the system would derive a tabulated baseline intensity for the emotions based on the data received and display a chart that provides information to guide the user based on the received data.

- Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shovers 5,696,981 in view of Snyder 4,931,934, in view of Kenknight 6,878,111 and further in view Lui 2002/0009696.

Regarding claim 7, Shovers in view of Snyder and further in view of Kenknight teaches the claimed limitations as discussed above.

Snyder further teaches calculation of personal happiness index (see col.5, lines 19-23 and FIG 5).

However, Shovers in view of Snyder and further in view of Kenknight does not positively teach, happiness based on the evaluation of fulfillment of the user's personal needs.

Lui discloses a method and apparatus for communicating emotions and needs that teaches, happiness based on the evaluation of fulfillment of the user's personal needs (Para.0021, lines 1-13 and Para.0024).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in

view of Kenknight and further in view of Lui by associating emotions and needs, and also by incorporating a feeling gauge (such as a numerically graduated scale) in order to properly evaluate and identify the emotional state of the subject based on his/her needs.

- Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shovers 5,696,981 in view of Snyder 4,931,934, in view of Kenknight 6,878,111, in view of Lui 2002/0009696 and further in view of Glenn 2002/0150872.

Regarding claim 8, Shovers in view of Snyder, in view of Kenknight and further in view of Lui teaches the claimed limitations as discussed above.

Snyder implicitly teaches, providing a user interface for updating the data entered following changes in his feeling and for recalculating the happiness index (col.5, lines 10-19 and col.6, lines 13-24).

However, Glenn teaches, providing a user interface for updating the data entered following changes in his feeling and for recalculating the happiness index (Para.0042, lines 7-11 and Para.0046).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in view of Kenknight, in view of Lui and further in view of Glenn by configuring the main menu of the computer to request entry of current status of the subject's mood in order to update the previous data and display the results of the mood based on the new entry.

Regarding claim 9, Shovers in view of Snyder, in view of Kenknight, in view of Lui and further in view of Glenn teaches the claimed limitations as discussed above.

Glenn further teaches, providing for the receipt of assistance in the form of guidance, advice and assessments from the relationship between the personal database and the advice and guidance pool (Para.0041), and a connection between the database in the personal application or the database connected by wireless or landline telephone, By internet or local area network or non-personal multi-user network (FIG 1, labels 107 and 108).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in view of Kenknight, in view of Lui and further in view of Glenn by implementing an internet connection between the subject's home computer system and the physician's office computer system in order to exchange data regarding mood or emotion in an efficient manner so that the subject would get the assistance he/she needs immediately.

Regarding claim 10, Shovers in view of Snyder, in view of Kenknight, in view of Lui and further in view of Glenn teaches the claimed limitations as discussed above.

Glenn further teaches, providing for the transfer of user data to another user or a group of users for the purpose of receiving assistance and support or transferring of assistance or support to others (Para.0039, lines 16-27 and Para.0040).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in view of Kenknight, in view of Lui and further in view of Glenn by incorporating a data storage device such as a diskette in order to store the subject's data and transfer to

Art Unit: 3714

physician's office (either in person or by mail) for analysis so that the subject would get the necessary feedback from a health care provider based on the data provided.

- Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shovers 5,696,981 in view of Snyder 4,931,934, in view of Kenknight 6,878,111, in view of Lui 2002/0009696, in view of Glenn 2002/0150872 and further in view of Abrahamson 5,002,491.

Regarding claims 13 and 14, Shovers in view of Snyder, in view of Kenknight, in view of Lui and further in view of Glenn teaches the claimed limitations as discussed above.

Glenn implicitly teaches, calculating group happiness index (Para.0040).

However, Shovers in view of Snyder, in view of Kenknight, in view of Lui and further in view of Glenn does not explicitly teach, the apparatus or method allowing individuals in a group to calculate the group happiness index.

Abrahamson teaches, the apparatus or method allowing individuals in a group to calculate the group happiness index, allowing individuals in the group to give and receive support from the group members for improving the collective/common happiness index. (col.3, lines 17-24 and col.11, lines 26-34).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in view of Kenknight, in view of Lui, in view of Glenn and further in view of Abrahamson by incorporating a networked classroom system in order to allow individuals to conduct group interactions such as working in groups to answer questions or conduct any other

activity which would be scored, there by allowing individuals in the same group to help each other to achieve a better score.

Regarding claim 15, Shovers in view of Snyder, in view of Kenknight, in view of Lui, in view of Glenn and further in view of Abrahamson teaches the claimed limitations as discussed above.

Glenn further teaches, providing for receipt of feedback from a person specializing in emotional support of others and receiving the user's details in real time while directly connected by a landline or wireless communication system and responding to and guiding the user (Para.0039, lines 13-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in view of Kenknight, in view of Lui, in view of Glenn and further in view of Abrahamson by incorporating an internet connection or by setting computers in the physician's office (as taught by Glenn) in order to allow individuals to enter their mood data so that the health care provider would get the data immediately and provide the individuals with the results of their mood analysis.

- Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shovers 5,696,981 in view of Snyder 4,931,934, in view of Kenknight 6,878,111, in view Lui 2002/0009696, in view of Glenn 2002/0150872, in view of Abrahamson 5,002,491 and further in view of Murgia 2002/0086271.

Regarding claim 16, Shovers in view of Snyder, in view of Kenknight, in view of Lui, in view of Glenn and further in view of Abrahamson teaches the claimed limitations as discussed above.

However, Shovers in view of Snyder, in view of Kenknight, in view of Lui, in view of Glenn and further in view of Abrahamson does not explicitly teach, the system is to include a learning component for analyzing and associating information details that the user enters into the system and through the connection formed, the effectiveness of the advice and guidance will increase personally for the user (Para.0045 and Para.0050).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in view of Kenknight, in view of Lui, in view of Glenn, in view of Abrahamson and further in view of Murgia by incorporating a character model that is configured based on the individual's mood so that the character would be unique through known neural net or a leaning algorithm means so that the individual would store this character representing his/her mood in a database, there by allowing the user to easily access and set the mood by calling the character.

- Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shovers 5,696,981 in view of Snyder 4,931,934, in view of Kenknight 6,878,111, in view Lui 2002/0009696, in view of Glenn 2002/0150872, and further in view of Murgia 2002/0086271.

Regarding claim 17, Shovers in view of Snyder, in view of Kenknight, in view of Lui, and further in view of Glenn teaches the claimed limitations as discussed above.

However, Shovers in view of Snyder, in view of Kenknight, in view of Lui, and further in view of Glenn does not positively teach, allowing the user to state a name of the emotion he wants to cope with and receive some advice and guidance immediately to help him cope with his feeling.

Murgia teaches, allowing the user to state a name of the emotion he wants to cope with and receive some advice and guidance immediately to help him cope with his feeling (Para.0037 and Para.0051, lines 2-6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Shovers in view of Snyder, in view of Kenknight, in view of Lui, in view of Glenn and further in view of Murgia by storing helpful information regarding certain behaviors in the database in order to teach the user the effect of such behaviors so that when the user wants to know the effects of a certain behavior, he/she would input any data regarding that particular mood and the system would advice or teach the individual based on the stored information in the database.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruk A. Gebremichael whose telephone number is (571) 270-3079. The examiner can normally be reached on Monday to Friday (7:30AM-5:00PM) ALT. Friday OFF.

Art Unit: 3714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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